

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of the Environment**
(DLS Control No. 15-396)

Overview and Legal and Fiscal Impact

The regulations establish new volatile organic compound (VOC) content limits and standards for a variety of architectural and industrial maintenance (AIM) coatings made available for sale and use in Maryland.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of the Environment:

Air Quality: Architectural and Industrial Maintenance (AIM) Coatings:
COMAR 26.11.41.01- .08

Legal Analysis

Background

In 2004, the Maryland Department of the Environment adopted COMAR 26.11.33 Architectural Coatings, which established VOC content limits for architectural and industrial coatings, recordkeeping and container labeling requirements for manufacturers of paints and coatings, and painting practices for the use and application of coatings. At that time, the regulations were based on a model rule developed by the Ozone Transport Commission (OTC). OTC based its model rule largely upon existing rules developed by the California Air Resources Board.

In 2011, OTC amended its model rule in consultation with a state-led workgroup. These regulations are intended to update current regulations to be consistent with the amended OTC model rule.

Summary of Regulations

Generally, the regulations establish new VOC content limits and standards, as well as container labeling requirements, for a variety of AIM coatings made available for sale and use in

Maryland. The regulations also include updated applicability provisions, exemptions, test methods, definitions, reporting requirements, and compliance procedures.

These regulations will go into effect January 1, 2017; at that time, the department intends to repeal COMAR 26.11.33.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The department cites §§ 1-404, 2-103, and 2-301 through 2-303 of the Environment Article as statutory authority for the regulations. The Secretary of the Environment has broad authority under § 1-404 to adopt regulations to carry out the provisions of law that are within the jurisdiction of the Secretary, including reviewing and revising regulations of the department. Section 2-103 provides the department with “jurisdiction over emissions into the air and ambient air quality in this State.” Further, § 2-301 authorizes the department to adopt regulations for the “control of air pollution in this State” and requires the department to adopt regulations that establish standards and procedures to be followed whenever pollution of the air reaches an emergency condition. Finally, § 2-302 requires the department to adopt regulations that set emission standards and ambient air quality standards for each of the air quality control areas in the State, and § 2-303 requires the department to follow the requirements of the Administrative Procedure Act when adopting regulations for ambient air quality control.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

The department notified the Department of Legislative Services of the following changes that will be made before publication:

- changing the codification of the regulation from COMAR 26.11.41 to COMAR 26.11.39;
- altering the compliance date in Regulation .04H from March 1, 2016 to May 1, 2016;
- altering the publication date from January 8, 2016 to January 22, 2016; and
- altering the hearing date from February 9, 2016 to February 22, 2016.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. Specifically, the department advises that no small businesses are expected to incur substantial economic impact as a result of the regulations. The department further advises that small businesses that purchase and use architectural and industrial maintenance coatings are likely to meet the standards at minimum cost. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Ryane M. Necessary – (410) 946/(301) 970-5350

Fiscal Analysis: Kathleen P. Kennedy – (410) 946/(301) 970-5510